

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS
DIVISION OF ST. CROIX**

CLIFFORD BOYNES, et al., Plaintiffs, v. LIMETREE BAY VENTURES, LLC, et al., Defendants.	Civil Action No. 2021-0253
HELEN SHIRLEY, et al., Plaintiffs, v. LIMETREE BAY VENTURES, LLC, et al., Defendants.	Civil Action No. 2021-0259
FRANCIS E. CHARLES and THERESA J. CHARLES, Plaintiffs, v. LIMETREE BAY VENTURES, LLC, et al., Defendants.	Civil Action No. 2021-0260
BEECHER COTTON, et al., Plaintiffs, v. LIMETREE BAY VENTURES, LLC, et al., Defendants.	Civil Action No. 2021-0261

PLAINTIFFS AND TERMINALS' JOINT SUBMISSION
RE: JULY 20, 2023 ORDER

Pursuant to the Court's July 20, 2023 Order, *e.g.*, *Boynes*, Dkt. No. 388, Plaintiffs and Defendant Limetree Bay Terminals, LLC ("LBT") submit the following:

1. PROPOSED CLAIM FORM

Attached as **Exhibit A** is the proposed Claim Form. The Parties have three disputes with the Claim Form which are redlined.

Dispute: Instruction, Section 2.C: LBT seeks to change the distribution centers to local grocery stores. At least one of the previous distribution centers, Sunshine Mall, has not yet confirmed that its facility is available for use as a distribution center. Setting up distribution centers raises challenges with adequate supply, transportation, storage, security and personnel. In attempting to meet its obligation under the Court Order to use commercially reasonably best efforts to ensure that the Distribution Centers are set up and operational as contemplated under the Order, LBT has approached two major local grocers in close proximity to the prior distribution centers, Stop & Shop Supermarket and The Market, both of whom are able and willing to be distribution centers. The stores indicate that they can meet the Court-ordered initiation date and can scale as the list of qualified applicants changes. In short, they have the infrastructure to meet the needs of the water program. Terminals will also be approaching another mid-island grocer to substitute for the OPT Distribution Center. Plaintiffs oppose this change because the locations are not convenient and they have not been provided with sufficient information concerning why the previous distribution centers are unavailable.

Dispute: Section B, Box 2: Defendants do not believe that a Mortgage or Deed is appropriate as proof of occupancy, because these documents display ownership and not occupancy

(unlike, e.g., monthly utility, credit card and mortgage statements which are customary proofs of current occupancy). Plaintiffs disagree because inclusion of these items track this Court’s “Order Implementing Water Distribution Program.” (Dkt. No. 390). Moreover, while a Mortgage or Deed may not, standing on their own, strictly demonstrate occupancy, they are evidence of such occupancy in conjunction with the attestation that applicants must sign under the penalty of perjury.

Dispute: Section B, Box 3, Option 2. Both Parties agree that this section should point applicants to the website and a telephone number for further information about both the financial eligibility criteria and the types of documents that an applicant may use to demonstrate that an applicant would be eligible to qualify for a Listed Program.

Plaintiffs believe that it is also appropriate to include the \$45,000 baseline for a family of four, because that is the qualifying criteria for the LIHEAP, which is generally the top baseline for eligibility for a Listed Program. Plaintiffs further assert that it is appropriate to make applicants aware that the number of household members, disabilities, or the presence of infants or children, might impact this baseline, such as by making an applicant eligible for “Supplemental Security Income,” or “Supplemental Nutrition Program for Women, Infants, and Children.” *See, e.g., Cotton*, Dkt. No. 373.

LBT believes claimants will be confused by the introductory language, which could be misleading by telling a claimant they may “likely” be eligible under Option 2. It is also confusing because the income level provided applies to a family of four (for one program), and also includes the other statements about varying figures, higher incomes, other family/household factors, etc. LBT believes it is sufficient to refer claimants to FAQs with the option to call the Administrator for questions and concerns.

2. PROPOSED MAP

Attached as **Exhibits B and B-1** are proposed maps depicting the Covered Area for the Court's approval. **Exhibit B** offers a view of the Covered Area compared to the entire Island of St. Croix, while **Exhibit B-1** offers a closer view of the Covered Area. The Parties are in agreement that the attached maps are an accurate representation of the Covered Area set forth in the Court's Order Implementing Water Distribution Program, *e.g.*, Dkt. No. 390, and Memorandum Opinion, *e.g.*, Dkt. No. 389.

3. PROPOSED ADMINISTRATOR

The Parties agree to the appointment of Epiq Class Action & Claims Solutions, Inc. ("Epiq") as the program Administrator. Epiq was selected following a request for proposal process overseen by the Parties. Attached as **Exhibit C** is the Declaration of Amanda Sternberg together with Epiq's *curriculum vitae*.

4. PROPOSED SPECIAL MASTER

The Parties cannot agree on a Special Master. Plaintiffs propose Henry C. Smock. Mr. Smock's resume is attached as **Exhibit D**. LBT proposes Gregory H. Hodges. Mr. Hodges' resume is attached as **Exhibit E**. Both individuals have been advised of the Court's Orders and are willing to serve in the position of Special Master.

Respectfully Submitted,

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